

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Jeffrey K. Bartels Del. ID # 2249
Kenneth William Richmond *pro hac vice* Attorneys for Plaintiffs
401 South Maryland Avenue
Wilmington, DE 19804
302-995-6211

Estate of Ronald W. Trotman

Plaintiff

v

First Correctional Medical, Inc., et al.

Defendants

Civil Action No. 07-62 GMS

PLAINTIFF'S RESPONSE TO
RULE 4(m) ORDER AND RULE TO SHOW GOOD CAUSE

AND NOW comes the Estate of Ronald W. Trotman, by its undersigned attorneys to show cause why the above captioned case should not be dismissed as to Defendants FCM and Gombeh-Ali, and as reasons therefore aver the following:

1. Defendant Sitta Gombeh-Ali was served on April 7, 2007, sixteen days after issuance of the summons by the Clerk for the Delaware District Court. A copy of the original summons and return is attached hereto as Exhibit "A". However the return of process had not been filed in anticipation of the entry of appearance by the same counsel for Defendant Jose Aramburo who had responded to informal service made on February 2, 2007, in this matter and 07-63 which was filed at the same time.

2. The present case is one of three which were collectively presented for mediation before the Honorable Magistrate Judge Thuyne, (06-278 and 05-449) two of which have been the subject of successful, settlement discussions between Plaintiff's counsel and counsel for defendant First Correctional and its various physicians during the period between May 15, 2007 and June 16, 2007. Defendant First Correctional Medical's counsel suggested for the first time during the recent June discussions that his firm might not be able to appear all of the medical defendants, and additionally, that First Correctional was seriously contemplating receivership.

3. Plaintiff served the Defendant FCM with a second copy of the Complaints in the present matter and in the matter docketed at 07-63 by UPS Overnight on April 25, 2007 with the sealed Summons provided by the Clerk for the Delaware District Court and a 4(d)(2) request for a Waiver which would make an Answer due on July 25, 2007. A copy of the shipment tracking label and tracking report is attached hereto as Exhibit "B".

4. The Civil Rights claim is ineligible for the entry of a Default Judgment by the Clerk for the District of Delaware. The unusual circumstances presented by the self-insurance of FCM and its corporate coverage of defendant medical personnel, an expressed need for the defense counsel to sort out the actual legal representation, coupled with all counsel's desire to maintain the amicable,

forthright atmosphere in this and several other similar matters has guided the conduct of Plaintiff's counsel.

WHEREFORE, the Plaintiff respectfully prays that the Rule to Show Cause be marked as having been Shown as to Defendant Gombah-Alie and that the Defendant First Correctional Medical be served by a Federal Marshal pursuant TO Rule 4©(2) within 15 days of the Order, costs to be borne by the Defendant FCM.

Respectfully submitted

/s/

Jeffrey K. Bartels
Kenneth William Richmond, *pro hac vice*
401 South Maryland Ave.
Wilmington, DE 19804
302-995-6211

CERTIFICATION OF SERVICE

I, Kenneth W. Richmond, Esq., pro hac vice counsel for the Plaintiff, hereby certify that on Thursday, July 5, 2007 a copy of the foregoing Reply to Sua Sponte Rule to Show Cause was served by e-mail upon Marc Neidzielski, Esquire, Department of Justice, Carvel State Office Building, 820 N. French Street, Wilmington, DE, 19801, and Daniel L. McKenty 1225 N. King Street, Suite 1100, Wilmington, DE, 19899

Date: July 5, 2007

/s/ _____
Kenneth W. Richmond, Esq.
2019 Walnut Street
Philadelphia, PA 19103
215-523-9200
Pro Hac Counsel for Plaintiff

EXHIBIT A

UNITED STATES DISTRICT COURT

District of

Delaware

ESTATE OF RONALD A. TROTMAN
PLAINTIFF

SUMMONS IN A CIVIL CASE

V.

FIRST CORRECTIONAL MEDICAL OF DEL.,
LLC; STANLEY TAYLOR; DR. SITTA GOMBEH-ALI;
JOYCE TALLEY; DR. JOSE ARAMBURO, MD
DEFENDANTS

CASE NUMBER: 07-62

TO: (Name and address of Defendant)

DR. SITTA GOMBEH-ALI, M.D.
802 RIDGE COURT
MIDDLETON, DE 19709

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jeffrey Bartels, Esquire
401 South Maryland Ave.
Wilmington, DE 19804

an answer to the complaint which is served on you with this summons, within TWENTY (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

MAR 22 2007

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

| RETURN OF SERVICE | | |
|---|---|-------------------|
| Service of the Summons and complaint was made by me ⁽¹⁾ | DATE 4/17/07 4/7/07 | |
| NAME OF SERVER (PRINT) E. William Hevenor | TITLE Individual Adult | |
| Check one box below to indicate appropriate method of service | | |
| <input type="checkbox"/> Served personally upon the defendant. Place where served: <u>Thomas Alie, identified as husband of Defendant Sita Gombel-Alie</u> | | |
| <input checked="" type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. | | |
| Name of person with whom the summons and complaint were left: <u>Thomas Alie Thomas Alie husband of Defendant Sita Gombel-Alie</u> | | |
| <input type="checkbox"/> Returned unexecuted: _____ | | |
| <input type="checkbox"/> Other (specify): _____ | | |
| STATEMENT OF SERVICE FEES | | |
| TRAVEL 126 miles / 3 attempts | SERVICES \$135.00 | TOTAL \$135.00 |
| DECLARATION OF SERVER | | |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> | | |
| Executed on <u>4/7/07</u> Date | <u>E. William Hevenor</u> Signature of Server | |
| | <u>2 Hozershoe Lane</u> <u>Polis, PA. 19301</u> Address of Server | |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

EXHIBIT B

UPS Next Day Air[®]
UPS Worldwide ExpressSM
Shipping Document

See instructions on back. Call 1-800-PICK-UPS (800-742-5877) for additional information.

TRACKING NUMBER 1Z F11 F42 22 1000 450 7

1 SHIPMENT FROM

SHIPPER'S UPS ACCOUNT NO. **F11F42**

REFERENCE NUMBER

NAME _____ TELEPHONE **215-523-9200**

COMPANY **RICHMOND & HEVENOR**

STREET ADDRESS **2019 WALNUT ST**

CITY AND STATE **PHILADELPHIA PA** ZIP CODE **19103-4403**


2 EXTREMELY URGENT DELIVERY TO

NAME **TAMMY KASTRIES** TELEPHONE _____

COMPANY **First Correctional Medical**

STREET ADDRESS **6861 North Cracker** DEPT./FLR. _____ Residential ☐

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Tucson, AZ** ZIP CODE **85737**



3 WEIGHT **WEIGHT** ENTER "LTR" IF LETTER **DIMENSIONAL WEIGHT** If Applicable

4 TYPE OF SERVICE ☐ NEXT DAY AIR ☐ EXPRESS (INT'L) ☐ DOCUMENTS ONLY

5 OPTIONAL SERVICES ☐ SATURDAY PICKUP See instructions. ☐ SATURDAY DELIVERY See instructions. ☐ INSURED VALUE Contents are automatically protected up to \$100. For insured value over \$100, see instructions. \$ AMOUNT \$ ☐ C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. \$ AMOUNT \$

6 ADDITIONAL HANDLING CHARGE ☐ An Additional Handling Charge applies for certain items. See instructions. \$

7 TOTAL CHARGES \$

7 METHOD OF PAYMENT ☐ BILL SHIPPER ☐ BILL RECEIVER ☐ BILL THIRD PARTY DOMESTIC ONLY ☐ CREDIT CARD ☐ American Express ☐ Diner's Club ☐ Discover ☐ MasterCard ☐ Visa ☐ CHECK

8 RECEIVERS / THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. **EXPIRATION DATE** / /

THIRD PARTY'S COMPANY NAME _____

STREET ADDRESS _____

CITY AND STATE _____ ZIP CODE _____

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9 SHIPPER'S SIGNATURE **X** **DATE OF SHIPMENT** / /

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Tracking Number: 1Z F11 F42 22 1000 450 7
 → [View package progress](#)
Type: Package
Status: **Delivered**
Delivered on: 04/25/2007 10:06 A.M.
Delivered to: TUCSON, AZ, US
Signed by: CIANCIOLO
Service Type: NEXT DAY AIR

Tracking results provided by UPS: 07/05/2007 8:33 A.M. EST (USA)

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